



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2418

Introduced 2/19/2009, by Rep. Naomi D. Jakobsson

SYNOPSIS AS INTRODUCED:

New Act

Creates the Potassium Bromate Exposure Act. Provides that no person in the course of doing business shall knowingly and intentionally expose any individual to potassium bromate or bromated flour without first giving clear and reasonable warning to such individual. Sets forth exemptions from this warning requirement and enforcement provisions. Provides that the Department of Public Health is responsible for the administration of the Act and may adopt any rules necessary for the Act's implementation.

LRB096 10305 RPM 20475 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Potassium Bromate Exposure Act.

6 Section 5. Definitions. For purposes of this Act:

7 "Person" means an individual, trust, firm, joint stock
8 company, corporation, company, partnership, limited liability
9 company, or association.

10 "Person in the course of doing business" does not include
11 any person employing fewer than 10 employees in his or her
12 business, any unit of local government or district or any
13 department or agency thereof, the State or any department or
14 agency thereof, or the federal government or any department or
15 agency thereof.

16 "Threaten to violate" means to create a condition in which
17 there is a substantial probability that a violation will occur.

18 "Warning" within the meaning of Section 10 of this Act need
19 not be provided separately to each exposed individual and may
20 be provided by general methods such as labels on consumer
21 products, inclusion of notices in mailings to customers,
22 posting of notices, placing notices in public news media, and
23 the like, provided that the warning accomplished is clear and

1 reasonable. In order to minimize the burden on retail sellers
2 of consumer products including foods, rules implementing
3 Section 10 of this Act shall to the extent practicable place
4 the obligation to provide any warning materials such as labels
5 on the producer or packager rather than on the retail seller,
6 except where the retail seller itself is responsible for
7 introducing the potassium bromate or bromated flour into the
8 consumer product in question.

9 Section 10. Required warning before exposure. No person in
10 the course of doing business shall knowingly and intentionally
11 expose any individual to potassium bromate or bromated flour
12 without first giving clear and reasonable warning to such
13 individual, except as provided in Section 15 of this Act.

14 Section 15. Exemptions from warning requirement. Section
15 10 of this Act shall not apply to any of the following:

16 (1) An exposure for which federal law governs warning
17 in a manner that preempts State authority.

18 (2) An exposure for which the person responsible can
19 show that the exposure poses no significant risk assuming
20 lifetime exposure at the level in question and that the
21 exposure will have no observable effect assuming exposure
22 at 1,000 times the level in question, based on evidence and
23 standards of scientific validity. In any action brought to
24 enforce Section 10 of this Act, the burden of showing that

1 an exposure meets the criteria of this subdivision (2)
2 shall be on the defendant.

3 Section 20. Enforcement.

4 (a) Any person that violates or threatens to violate
5 Section 10 of this Act may be enjoined in any court of
6 competent jurisdiction.

7 (b) Any person who has violated Section 10 of this Act
8 shall be liable for a civil penalty not to exceed \$2,500 per
9 day for each violation, in addition to any other penalty
10 established by law. This civil penalty may be assessed and
11 recovered in a civil action brought in any court of competent
12 jurisdiction.

13 In assessing the amount of a civil penalty for a violation
14 of this Act, the court shall consider all of the following:

15 (1) The nature and extent of the violation.

16 (2) The number of and severity of the violations.

17 (3) The economic effect of the penalty on the violator.

18 (4) Whether the violator took good faith measures to
19 comply with this Act and the time these measures were
20 taken.

21 (5) The willfulness of the violator's misconduct.

22 (6) The deterrent effect that the imposition of the
23 penalty would have on both the violator and the regulated
24 community as a whole.

25 (7) Any other factor that justice may require.

1 (c) Actions pursuant to this Section may be brought by the
2 Attorney General in the name of the people of the State of
3 Illinois or by any State's Attorney.

4 Section 25. Administration of Act. The Department of
5 Public Health is responsible for the administration of this
6 Act. The Department may adopt any rules necessary to implement
7 this Act.